

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CR 09-1733-TUC-JMR(JCG)
)	
v.)	<u>ORDER</u>
)	
ALEX IBARRA TORRES,)	
)	
Defendant.)	

The District Court, having reviewed the Magistrate Judge's Report and Recommendation, and no objections having been filed by counsel of record,

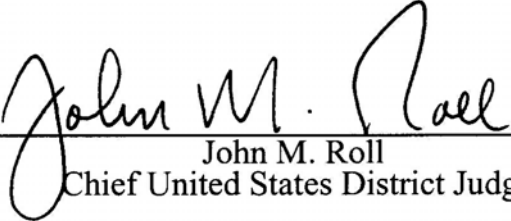
IT IS ORDERED the Court **ADOPTS** the Magistrate Judge's Report and Recommendation dated February 4, 2010.

Although defense counsel challenged only the admissibility of Defendant's April 30, 2009 statements and not the May 14, 2009 statements, because an inadmissible interrogation could cause a defendant to proceed to make subsequent statements, see e.g. Missouri v. Seibert, 124 S.Ct. 2601(2004), the Court considers the admissibility of both statements.

The evidence shows, by a preponderance of the evidence, that the Defendant's April 30, 2009 statements were voluntarily made. As to the May 14, 2009 interview of the Defendant, once again, by a preponderance of the evidence, that statement was voluntarily given.

Because neither statement was custodial, the giving of Miranda rights was not required. Further, because the April 30, 2009 statement was not obtained in violation of Defendant's rights, it cannot be said to have tainted or impermissibly contributed to the giving of the May 14, 2009 statement.

DATED this 26th day of February, 2010.



John M. Roll
Chief United States District Judge